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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

JAN - 2 2008

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January 2, 2008

Via Facsimile (212) 805-4258
The Honorable Debra C. Freeman
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: Islam v. Fischer, et al., 07 Civ. 3225 (PKC) (DCF)

Dear Judge Freeman:

I am the Assistant Attorney General in the Office of Andrew M. Cuomo, Attorney General of the State of New York, assigned to represent the defendants in this action who, to date, have moved to dismiss or answered in this action (Fischer, Leclair, Connolly, Simmons and Hirsch), all of whom are New York State Department of Correctional Services ("DOCS") employees. This action was brought pursuant to 42 U.S.C. § 1983 by recently released *pro se* plaintiff Nurdeen Islam and concerns alleged exposure to secondhand tobacco smoke at Fishkill Correctional Facility. Defendants' motion to dismiss has not yet been decided.

I am writing to update you on the status of locating named, but not served, retired DOCS employees Stephan Petric and John Turner. I have finally been able to contact both of these former DOCS employees and both have requested that my office represent them. The need for formal service of process will be waived. We respectfully request that they be allowed until January 22, 2008 in which to answer or move to dismiss.

Respectfully submitted,

Jeb Harben

Jeb Harben
Assistant Attorney General

cc: Nurdeen Islam c/o Janie Bowens
875 Pennsylvania Avenue, Apt. 3H
Brooklyn, NY 11207

SO ORDERED: DATE: 1/4/08

..... *Debra Freeman*

DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE

Copy to be filed

Debra Freeman